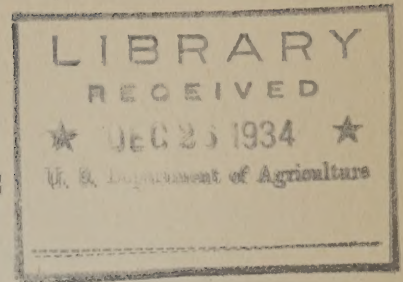


1.94
D14 Pl
Richmond

Docket No. L-49

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION



PROPOSED AMENDED LICENSE
FOR MILK
RICHMOND, VIRGINIA, SALES AREA
WITH EXHIBIT A
ALLOTMENT AND REGULATION OF BASES

This Proposed Amended License for Milk in its present form is proposed as the basis of a public hearing for the above-mentioned industry, and none of the provisions contained herein are to be regarded as having received the approval of the Agricultural Adjustment Administration as applying to this industry.

I hereby certify that this is a true and correct copy of the Proposed Amended License for Milk, Richmond, Virginia, Sales Area, on file in the Office of the Chief Hearing Clerk, United States Department of Agriculture, Agricultural Adjustment Administration.

(Signed) James K. Knudson
Chief Hearing Clerk

Dated: December 20, 1934

Washington, D. C.

THE UNITED STATES

DEPARTMENT OF JUSTICE

OFFICE OF THE ATTORNEY GENERAL

WASHINGTON, D. C.

February 1, 1941

Dear Sir:

Reference is made to your letter of January 15, 1941, in which you requested information regarding the status of the application for a writ of habeas corpus filed by you on behalf of the person named in the caption of the application.

The application is now pending before the United States District Court for the District of Columbia, and the Court has not yet rendered its decision thereon.

Very respectfully,
Attorney General

Very truly yours,
Clegg

Enclosure

PROPOSED AMENDED LICENSE FOR MILK

RICHMOND, VIRGINIA, SALES AREA

ARTICLE I -- PREAMBLE

Whereas, it is the declared policy of Congress as set forth in section 2 of the Agricultural Adjustment Act, approved May 12, 1933, as amended:

- (1) To establish and maintain such balance between the production and consumption of agricultural commodities, and such marketing conditions therefor, as will reestablish prices to farmers at a level that will give agricultural commodities a purchasing power with respect to articles that farmers buy, equivalent to the purchasing power of agricultural commodities in the base period, the base period in the case of all agricultural commodities except tobacco shall be the prewar period, August 1909 - July 1914; and
- (2) To approach such equality of purchasing power by gradual correction of the present inequalities therein at as rapid a rate as is deemed feasible in view of the current consumptive demand in domestic and foreign markets; and
- (3) To protect the consumers' interest by readjusting farm production at such level as will not increase the percentage of the consumers' retail expenditures for agricultural commodities, or products derived therefrom, which is returned to the farmer above the percentage which was returned to the farmer in the prewar period, August 1909 - July 1914; and

Whereas, pursuant to the Agricultural Adjustment Act, as amended, for the purpose of correcting conditions now obtaining in the production of milk and the distribution thereof in the Richmond, Virginia, Sales Area, and to effectuate the declared policy of the Act, the Secretary of Agriculture proposes to issue an Amended License under provisions of section 8 (3) of the Act and pursuant to applicable General Regulations:

Now, therefore, the Secretary of Agriculture, acting under the authority vested in him,

Hereby proposes to license each and every distributor to engage in the business of marketing, distributing, or handling milk or cream as a distributor in the Richmond Sales Area, subject to the terms and conditions set forth in this proposed Amended License (hereinafter called the "License").

ARTICLE II -- DEFINITIONS

Section 1. Definitions of Terms. As used in this License, the following words and phrases shall be defined as follows:

1. "Act" means the Agricultural Adjustment Act approved May 12, 1933, as amended.

2. "Secretary" means the Secretary of Agriculture of the United States.

3. "Richmond Sales Area", hereinafter called the "Sales Area", means the territory, all in the State of Virginia, within the corporate limits of the City of Richmond, within the county of Henrico, within Manchester District of Chesterfield County and within Ashland District of Hanover County.

4. "Person" means any individual, partnership, corporation, association or other business unit.

5. "Producer" means any person, irrespective of whether any such person is also a distributor, who produces milk in conformity with the applicable health requirements in force and effect within the Sales Area for milk to be sold for consumption as whole milk in the Sales Area.

6. "New producer" means (1) a producer whose milk was neither being purchased by distributors nor being distributed in the Sales Area within 90 days prior to the effective date of this License, or (2) a producer who has ceased to market milk pursuant to the terms and provisions of this License for a period of forty-five (45) consecutive days or more, and thereafter markets milk pursuant to the terms and provisions of this License.

7. "Distributor" means any of the following persons, (irrespective of whether any of such persons is a producer or an association of producers), wherever located or operating, whether within or without the Sales Area, engaged in the business of distributing, marketing, or in any manner handling, whole milk or cream, in whole or in part, for ultimate consumption in the Sales Area:

(a) Who pasteurize, bottle or process milk or cream;

(b) Who distribute milk or cream at wholesale or retail to (1) hotels, restaurants, stores or other establishments for consumption on the premises; (2) stores or other establishments for resale; and (3) consumers;

(c) Who operate stores or other establishments selling milk or cream at retail for consumption off the premises;

(d) Who purchase, market or handle milk or cream which is sold for resale in the Sales Area.

8. "Subsidiary" means any person of, or over whom or which, a distributor or an affiliate of a distributor has, or several distributors collectively have, either directly or indirectly, actual or legal control, whether by stock ownership or in any other manner.

9. "Affiliate" means any person and/or any subsidiary thereof, who or which has, either directly or indirectly, actual or legal control of or over a distributor, whether by stock ownership or in any other manner.

10. "Books and records" means books, records, accounts, contracts, memoranda, documents, papers, correspondence or other data pertaining to the business of the person in question.

11. "Market Administrator" means the person designated pursuant to Article III.

12. "Delivery period" means the period from the first to, and including the last day of each month.

13. "Established base", for each producer (including each distributor who is also a producer), means that quantity of milk allotted to such producer in accordance with the provisions of exhibit A, which is attached hereto and made a part hereof.

14. "First delivered base" means (1) for each producer that quantity of milk delivered by such producer to distributors, which is not in excess of such a percentage of the established base of such producer as the Market Administrator shall have calculated and announced as the approximate relationship, for any delivery period, between the total Class I milk and the total established bases of all producers, and (2) for each distributor, who is also a producer, that quantity of milk produced and sold or distributed by such distributor as Class I, Class II and Class III milk, which is not in excess of the percentage of the established base of such distributor, which the Market Administrator announces for any delivery period pursuant to this paragraph.

15. "Second delivered base" means (1) for each producer, that quantity of milk delivered by such producer to distributors, which is in excess of the first delivered base of such producer but not in excess of such a percentage, in addition to the percentage announced pursuant to paragraph 14 of this section, as the Market Administrator shall have calculated and announced as the approximate relationship, for any delivery period, between the total Class II milk and the total established bases of all producers, and (2) for each distributor who is also a producer, that quantity of milk produced and sold or distributed by such distributor as Class I, Class II and Class III milk, which is in excess of the first delivered base of such distributor but not in excess of the percentage of the established base of such distributor, which the Market Administrator announces pursuant to this paragraph.

ARTICLE III -- MARKET ADMINISTRATOR

Section 1. Designation, Removal, Bond and Liability. The Market Administrator shall be designated, and shall be subject to removal at any time,

by the Secretary. The Market Administrator, within forty-five (45) days following the date upon which he enters upon his duties, shall execute and deliver to the Secretary a bond in such amount as the Secretary may determine, with surety thereon satisfactory to the Secretary, conditioned upon the faithful performance of the duties of such Market Administrator. The Market Administrator shall not be held personally responsible in any way whatsoever to any licensee or to any other person for errors in judgment, mistakes of fact or other acts, either of commission or omission, except for acts of dishonesty, fraud, or malfeasance in office.

Sec. 2. Duties. The Market Administrator shall:

1. Perform such duties as may be provided for him pursuant to this License and amendments thereto.
2. Keep such books and records as will clearly reflect the financial transactions provided for in this License, which books and records shall be subject to examination by the Secretary at any and all times.
3. Furnish such information and such verified reports as the Secretary may, from time to time, request.
4. Obtain a bond with reasonable security thereon for each employee who handles funds entrusted to the Market Administrator under the provisions of this License.

Sec. 3. Rights. The Market Administrator shall have the right:

1. To borrow money for the purpose of establishing an office with the necessary equipment and supplies, and for the purpose of meeting current operating expenses during not to exceed two delivery periods; which monies shall be repaid from the funds retained by the Market Administrator to meet his cost of operation.
2. To incur necessary expenses, including compensation for persons employed by the Market Administrator for the proper conduct of his duties, and including the cost of procuring and continuing his bond.
3. To examine the books and records of the distributors and the books and records of the affiliates and subsidiaries of each distributor for the purpose of (1) verifying the reports and information furnished to the Market Administrator by each distributor pursuant to this License, and/or (2) obtaining the information from any distributor in the event such distributor fails to furnish reports or information as required by this License.
4. To check sampling, weighing and butterfat tests of milk made by distributors, to determine the accuracy thereof, and for the purpose of assuring proper payments to producers. In the event of a discrepancy between the weights and tests determined by the Market Administrator, and the weights and tests determined by the distributors, settlements shall be made by distributors upon the basis of such weights and such butterfat tests as the Market Administrator may in each case decide.

5. And the power, upon the specific approval of the Secretary, to institute legal proceedings in his own name, as Market Administrator, and to take any other steps which may be necessary to collect any and all moneys which may become due and owing to him as such Market Administrator and to enforce such obligations as accrue to him as such Market Administrator under the terms and provisions of this License.

Sec. 4. Compensation. The Market Administrator shall be entitled to reasonable compensation, which shall be determined by the Secretary.

ARTICLE IV -- CLASSIFICATION OF MILK SALES AND USES

Section 1. Primary Sales and Uses. Milk purchased or handled by distributors shall be classified according to its sale and use as follows:

1. Class I milk means all milk sold or distributed by distributors as whole milk for consumption or use in the Sales Area.

2. Class II milk means all milk purchased, sold or used by distributors not classified as Class I milk or Class III milk.

3. Class III milk means the quantity of milk sold or used as milk or cream by distributors for the manufacture of ice cream or butter.

Sec. 2. Other Sales and Uses. Milk sold or distributed as milk or cream outside the Sales Area or sold to other distributors or persons whether within or without said Sales Area shall be classified as follows:

1. Milk sold in bulk as milk or cream by a distributor who is also a producer to a distributor operating a bottling or processing plant shall be accounted for as Class III milk by such selling distributor, and if such buying distributor uses or sells such milk for other than Class III purposes such buying distributor shall account to the Market Administrator for the difference between the value of such milk or cream at the Class III price and the value of such milk or cream at the Class I or Class II price according to its usage; such difference in value shall be added to the total value computed pursuant to paragraph 1, section 1 of article VIII.

2. Except as provided in paragraph 1 of this section, milk sold or distributed by a distributor as milk or cream (1) outside the Sales Area or (2) to another distributor or person, whether within or without the Sales Area, shall be accounted for by such selling distributor as Class I and Class II milk, respectively: Provided, That if such selling distributor, on or before the date fixed for filing reports pursuant to article VI, shall furnish to the Market Administrator satisfactory proof that such milk or cream has been utilized for a purpose other than the sale or distribution for ultimate consumption or use as milk or cream, then, and in that event such milk or cream shall be classified in accordance with such other use.

ARTICLE V -- PRICES TO DISTRIBUTORS AND CONDITIONS OF SALES

Section 1. Prices. Each distributor, except as hereinafter provided, shall be obligated to pay, in the manner herinafter set forth in this License,

the following prices for milk, of 4.0 percent butterfat content, which he has purchased from producers, including new producers, delivered f.o.b. distributor's plant:

1. Class I milk - \$3.17 per hundredweight.
2. Class II milk - \$2.00 per hundredweight.
3. Class III milk - For each hundred pounds of milk four (4) times the average price per pound of 92-score butter at wholesale in the New York Market as reported by the United States Department of Agriculture for the delivery period during which such milk is purchased, plus 10 percent.

Sec. 2. Other Licenses for Milk. If any milk is purchased from producers pursuant to the terms and conditions of this License and sold as milk or cream for ultimate consumption in another market with respect to which a License is in effect pursuant to section 8 (3) of the Act covering such purchase from producers and such sale as milk or cream, then, and in that event the License in effect in the area in which such milk or cream is sold for ultimate consumption shall govern the prices and conditions of such sale.

Sec. 3. Transactions with Violators. No distributor shall purchase milk or cream from, or process or distribute milk or cream for, or sell milk or cream to any other distributor who he has notice is violating any provision of this License.

Sec. 4. Prior Contracts. Any contract or agreement entered into by a distributor prior to the effective date of this License, covering the purchase, delivery and/or sale of milk and its products, shall be deemed to be superseded by the terms and conditions of this License insofar as such contract or agreement is inconsistent with any provisions of this License.

ARTICLE VI -- REPORTS OF RECEIPTS AND SALES OF MILK BY DISTRIBUTORS.

Section 1. On or before the 7th day after the end of each delivery period, each distributor (other than those who operate only stores or similar establishments) shall report to the Market Administrator in a manner prescribed by the Market Administrator, with respect to milk or cream received and/or produced by such distributor, during such delivery period, as follows:

1. The deliveries at each plant location from producers, who are not also distributors, supplying such distributor, the total quantity of milk represented by the first and second delivered bases respectively, of all such producers, and the total quantity of milk represented by the excesses over first and second delivered bases of all such producers, and the deliveries of new producers supplying such distributor.

2. The total quantities of milk which were sold, used or distributed by such distributor as Class I, Class II and Class III milk, respectively, including sales to other distributors.

3. The deliveries of milk made to such distributor by any other distributor, including a distributor who is also a producer.

4. The quantity of milk produced by such distributor, if any, which was sold, used or distributed by him as Class I, Class II and Class III milk, respectively.

5. Upon first receiving milk from any producer (1) the name of such producer, (2) the date on which such milk was first received, and (3) whether or not such producer is a new producer.

6. Such other information as the Market Administrator may request for the purpose of performing the provisions of this License.

ARTICLE VII -- DISTRIBUTORS NOT MARKETING WHOLE MILK AND DISTRIBUTORS WHO ARE ALSO PRODUCERS

Section 1. Distributors Not Marketing Whole Milk. Any distributor who does not sell or distribute whole milk for ultimate consumption or use in the Sales Area:

1. Shall not sell cream to other distributors for distribution and ultimate consumption or use in the Sales Area at a price less than the price at which such distributor sells similar cream for distribution and ultimate consumption nearest the location where milk is processed into such cream by such distributor, plus the reasonable cost of transporting such cream to the Sales Area.

2. Shall not be subject to the terms and provisions of section 1 of article V, nor of articles VIII, IX, X, XII or XIII; but shall submit any or all reports pursuant to article VI upon the request of the Market Administrator.

Sec. 2. Distributors Who Are Also Producers. With respect to each distributor who is also a producer:

1. The Market Administrator shall, subject to the condition set forth in paragraph 3 of this section, exclude in the following manner all milk produced and sold by such distributor from the computation made pursuant to section 1 of article VIII:

(a) The milk produced and sold in excess of first and second delivered base by such distributor by deducting such excess over base from such distributors' total Class III, Class II and Class I milk, (after excluding purchases from other distributors), using all of each class of milk in the order above named before making any deductions from the succeeding class of milk.

(b) The total of first and second delivered base of such distributor by ratably apportioning such total among such distributor's total Class I, Class II and Class III milk after making the adjustments and deductions pursuant to sub-paragraph (a)

2. The Market Administrator shall, subject to the condition set forth in paragraph 3 of this section, include in the computation made pursuant to section 1 of article VIII:

(a) The difference in value between the excess over first and second delivered base of such distributor, multiplied by the Class III price and the total value of such excess over base apportioned among such distributor's Class III, Class II and Class I milk pursuant to paragraph 1 (a) of this section and multiplied by the Class III, Class II and Class I prices, respectively.

(b) The milk purchased by such distributor from other producers and the value thereof, computed as follows: The quantity of such milk shall be ratably apportioned among such distributor's total Class I, Class II and Class III milk after making the adjustments and deductions set forth in paragraph 1 (a) of this section, and shall multiply such adjusted quantities by the Class I, Class II, and Class III prices, respectively.

3. The Market Administrator shall upon prior written notice from such distributor of the exercise thereof, grant the option of having all milk produced by such distributor included in the computation made pursuant to section 1 of article VIII in lieu of the provisions of paragraphs 1 and 2 of this section.

4. Milk sold in bulk as milk or cream by such distributor to another distributor operating a bottling or processing plant shall be accounted for as Class III milk by such selling distributor pursuant to paragraph 1, section 2 of article IV.

Sec. 3. Limitations. No provisions in this License shall be construed to relieve any distributor who does not sell or distribute whole milk or any distributor who is also a producer from any of the obligations of this License except as set forth in sections 1 and 2 of this article. The provisions set forth in section 2 of this article shall not apply to any distributor other than a person who produces milk distributed by himself as whole milk or cream.

ARTICLE VIII -- DETERMINATION AND NOTIFICATION OF PRICES TO PRODUCERS

Section 1. Computations. With respect to each delivery period, the Market Administrator shall:

1. Compute the total value of the milk reported by each and all distributors pursuant to article VI on the basis of the classification and prices set forth in articles IV and V respectively, which computations shall not include milk or the value thereof (1) as purchased by distributors from other

distributors except as set forth in paragraph 1, section 2 of article IV, (2) as excluded from such computations pursuant to the provisions of article VII, or (3) if classified as emergency milk pursuant to section 3 of article IX.

2. Compute the total quantity of milk which represents the first and second delivered bases, respectively, of producers (excluding new producers) and which is included in the computations pursuant to paragraph 1 of this section.

3. Compute the total value of the milk (including all milk delivered by new producers) which is in excess of the first and second delivered bases determined pursuant to paragraph 2 of this section and which is included in the computations pursuant to paragraph 1 of this section, by multiplying such quantity of milk by the price specified for Class III milk in section 1 of article V.

4. Compute the total value of the quantity of milk represented by the first delivered bases of producers by multiplying such quantity of milk by the price specified for Class I milk in section 1 of article V.

5. Compute the total value of the quantity of milk represented by the second delivered bases of producers by subtracting the values obtained in paragraphs 3 and 4 of this section from the value obtained in paragraph 1 of this section.

6. Compute the blended price for the quantity of milk represented by the second delivered bases of producers by dividing the value obtained in paragraph 5 of this section by the quantity of milk represented by the second delivered bases of producers as determined in paragraph 2 of this section, which blended price shall be subject to adjustments as set forth in section 2 of this article.

Sec. 2. Adjustments for Reserves. The Market Administrator may adjust the blended price, computed pursuant to section 1 of this article, for the purpose of establishing and maintaining a reserve fund against (1) the failure or delay of distributors to make payments on equalization accounts pursuant to section 2 of article X, (2) errors and discrepancies in reports of distributors, and (3) errors and discrepancies in equalization accounts, including adjustments on delayed reports of distributors: Provided, That such adjustments in the blended price for any one delivery period may not, except upon the specific approval of the Secretary, exceed an amount equal to two (2) per cent of the total value of milk reported by distributors for such delivery period. Such reserve fund shall at no time contain a net amount in excess of ten (10) per cent of the value of the milk reported by distributors for an average delivery period and shall in no event be used by the Market Administrator to meet any costs or liabilities incurred by him under this License. If and when all or any portion of said reserve fund is not necessary to accomplish the purpose for which it was created, equitable distribution thereof shall be made by the Market Administrator to the producers supplying milk for distribution in the Sales Area.

Sec. 3. Notification of Producer's Prices. On or before the 10th day after the end of each delivery period, the Market Administrator shall notify all distributors, whose reports are included in the computations made pursuant to section 1 of this article, of the blended price, computed pursuant to section 1 of this article, as adjusted pursuant to section 2 of this article, and of the Class III price as provided for in section 1 of article V.

ARTICLE IX -- PAYMENTS TO PRODUCERS

Section 1. Payments to Producers and New Producers. Each distributor shall pay to producers and to new producers on or before the 15th day after the end of each delivery period for milk delivered by such producers during such delivery period, subject to adjustments as set forth in this article and deductions as set forth in article XII:

1. The Class I price for the quantity of milk which is such producer's first delivered base;
2. The adjusted blended price, announced pursuant to section 3 of article VIII, for the quantity of milk delivered by each producer which is such producer's second delivered base;
3. The Class III price for the quantity of milk delivered by each such producer in excess of such producers first and second delivered bases; and
4. The Class III price for the total quantity of milk delivered by each new producer, which price shall apply from the date when milk is first received from such new producer to the end of the third full delivery period.

Sec. 2. Additional Payments. Any distributor may, with the prior approval of the Market Administrator, make payments to producers in addition to the payments pursuant to section 1 of this article: Provided, That such additional payments are made to all such producers supplying such distributor with milk of similar quality and grade. No distributor may accept services from or render services to a producer or an association of producers from whom he is purchasing milk without making a reasonable payment or charge, as the case may be, for such services.

Sec. 3. Emergency Milk. During any emergency period when the normal supply of milk from producers is not sufficient to meet the Class I and Class II requirements of any distributor, such distributor may, with the prior approval of the Market Administrator, purchase milk for such emergency purposes from producers on terms and conditions other than those set forth in this article and in article XII, but at prices not less than the equivalent of the prices set forth in article V, in which event such milk shall not be included in the computations as provided in article VIII, but shall be reported separately to the Market Administrator by such distributor.

Sec. 4. Butterfat Differentials. Each distributor shall pay 5 cents per hundredweight of milk for each 1/10th of one percent butterfat content above, and shall deduct a similar amount for each 1/10th of one percent butterfat content below 4.0 percent butterfat on all milk on which prices are paid producers pursuant to sections 1 and 2.

ARTICLE X -- EQUALIZATION AMONG DISTRIBUTORS
AS TO PAYMENTS TO PRODUCERS

Section 1. Equalization Accounts. The Market Administrator shall maintain for distributors whose reports are included in the computations pursuant to article VIII, records and accounts which will accurately disclose for each distributor (1) a debit of the total value of milk as computed for such distributor pursuant to paragraph 1, section 1 of article VIII, (2) a credit of the total payments to be made by such distributor pursuant to section 1 of article IX, and (3) the payments to be made by such distributor to the Market Administrator and payments to be made by the Market Administrator to such distributor.

Sec. 2. Statement to Distributors and Payment of Balances. On or before the 12th day after the end of each delivery period the Market Administrator shall render a statement to each distributor whose reports are included in the computations pursuant to article VIII, showing the debit or credit balance, as the case may be, in the equalization account of such distributor with respect to milk purchased, sold or used during such delivery period. Debit balances shall be paid to the Market Administrator on or before the 15th day after the end of such delivery period. Any funds so paid to the Market Administrator shall, as soon as reasonably possible, be paid out by him pro rata among the distributors having credit balances in proportion to, but only to the extent of each such credit balance.

ARTICLE XI -- PRODUCERS AND PRODUCERS' COOPERATIVE
ASSOCIATIONS

Section 1. Payments by Cooperatives. No provision in this License shall be construed as controlling or restricting any producers' cooperative association which meets the requirements of the Capper-Volstead Act and is licensed as a distributor under this License, with respect to the actual deductions or charges, dividends or premiums to be made by such association from and/or to its members: Provided, That no such deductions or charges may be made by any such producers' cooperative association from any of its members, to meet a current operating loss incurred by such producers' cooperative association in its processing or distribution operations unless (a) expressly and specifically authorized by any such member to make such deductions or charges for such purpose, and (b) the producers' cooperative association notifies the Market Administrator of the same,

Sec. 2. Right to Check Weights and Tests. A producer's association shall at all reasonable times have, with respect to its members, the right to check sampling, weighing and butterfat tests of milk made by distributors: Provided, That the Market Administrator has given notice that such association is qualified to perform satisfactorily the services specified in section 2 of article XII.

Sec. 3. Transportation Rights. Producers shall have the right to deliver milk to plants or platforms of distributors, using any reasonable method of transportation which they, in their discretion, may select. No distributor shall interfere with or discriminate against producers in the

exercise of such right. At the request of the Market Administrator, each distributor shall from time to time, submit a verified report stating the actual transportation charges on all milk delivered to him f.o.b. any and all plants, for the purpose of permitting the Market Administrator to review such transportation charges and to determine the reasonableness thereof.

ARTICLE XII -- DEDUCTIONS FROM PAYMENTS TO PRODUCERS

Section 1. For Market Administration. Each distributor shall deduct two (2) cents per hundredweight from the payments to be made by him pursuant to article IX in regard to all milk delivered to him during each delivery period by producers who are not also distributors and shall on or before the 15th day after the end of each such delivery period, pay such deduction to the Market Administrator, and each distributor who produces milk distributed by him shall make a similar payment for milk produced by him and sold during each delivery period as Class I, Class II or Class III milk. Such payments shall be retained by the Market Administrator in a separate account to meet his cost of operation.

Sec. 2. For Marketing Services. Upon the request of the Market Administrator each distributor shall, in addition, deduct five (5) cents per hundredweight from the payments to be made by such distributor pursuant to article IX in regard to all milk delivered to him during each delivery period by producers (1) for whom the following services are not currently rendered by a producers' cooperative association in a manner satisfactory to the Market Administrator: (a) market information, (b) supervision over weights and tests, and (c) to the extent that funds permit, the establishment and maintenance of a reserve fund for protection against the failure of distributors to make payments for milk purchased; and (2) from whom a substantially similar charge or deduction is not being paid by distributors to a producers' cooperative association for such purposes. Such deductions shall be paid to the Market Administrator on or before the 15th day after the end of each delivery period and shall be expended by him for the purpose of securing services similar to those above named for producers from whose payments such deductions are made, except that with the approval of the Secretary, the Market Administrator may notify any producer when the distributor to whom such producer is selling milk is violating any of the terms and provisions of this License, and no producer shall be entitled to protection against the failure of such distributor to make payments for milk purchased from such producer thereafter and until otherwise notified by the Market Administrator. All deductions made pursuant to this section shall be kept in a separate account by the Market Administrator and shall in no event be used by him to meet any costs/^{or}liabilities incurred by him under this License, except as provided in this section.

Sec. 3. Agents of Market Administrator. The Market Administrator may, in his discretion, employ the facilities and services of any agent or agents for the purpose of securing to producers the aforementioned benefits, if such benefits may be efficiently and economically secured thereby. The Market Administrator shall pay over such funds to such agent or agents, if he determines to do so, only upon the consent of such agent or agents to (1) keep its or their books and records in a manner satisfactory to

the Market Administrator; (2) permit the Market Administrator to examine its or their books and records, and to furnish the Market Administrator such verified reports or other information as the Market Administrator may from time to time request; and (3) disburse such funds in the manner above provided.

Sec. 4. Waiver of Deductions. The Market Administrator, in his discretion, may at any time waive the foregoing deductions or distribute any balance arising from such deductions, or any part thereof, for any delivery period (in which event the deductions so waived shall not be made by the distributors from payments to producers); the distribution of any such balances shall be equitable (1) among all producers with respect to the amounts paid to the Market Administrator pursuant to section 1 of this article, and (2) among all producers from whom such deductions have been made pursuant to section 2 of this article.

ARTICLE XIII -- DISTRIBUTOR'S FINANCIAL RESPONSIBILITY

Section 1. Bond. Each distributor who purchases milk from producers and sells any part of such milk for distribution as whole milk for consumption in the Sales Area shall, within thirty days after the receipt of a notice to that effect from the Market Administrator, furnish to the Market Administrator a bond with good and sufficient surety thereon, satisfactory to the Market Administrator (in an amount not in excess of the purchase value of the milk purchased by such distributor during any two successive delivery periods as designated by the Market Administrator) for the purpose of securing the fulfillment of such distributor's obligations as provided in this License. Any distributor who commences to do business after the effective date of this License shall, as a condition precedent to engaging in such business, furnish to the Market Administrator a bond in conformity with the foregoing provision.

Sec. 2. Waiver of Bond. The Market Administrator may (1) if satisfied from the investigation of the financial condition of a distributor that such distributor is solvent and/or possessed of sufficient assets to fulfill his said obligations, or (2), if, pursuant to a State statute, a distributor has furnished a bond with good and sufficient surety thereon in conformity with the foregoing provision, waive the requirement of such bond as to such distributor. Such distributor may, upon a change in such circumstances, be required by the Market Administrator to comply with the foregoing requirement.

Sec. 3. Periodic Deposits. Each distributor who is unable to meet the requirements of the foregoing provisions, shall make periodic deposits with the Market Administrator at such times, in such amounts, and in such manner as the Market Administrator may determine to be necessary in order to secure the fulfillment of such distributor's obligations as provided in this License.

ARTICLE XIV --- MILK INDUSTRY BOARD

Section 1. Establishment. The Secretary may, in his discretion, at any time establish a Milk Industry Board, which shall have representation of producers, distributors, and the public. In establishing the Milk

Industry Board, the Secretary will give due consideration to the recommendations and nominations by various groups of producers, distributors and the consuming public.

Sec. 2. Duties and Powers. The Milk Industry Board shall have such duties and powers as the Secretary may, from time to time, delegate to it, in order to effectuate the provisions and purposes of this License.

Sec. 3. Expenses. The Secretary may further, in his discretion, authorize and direct the Market Administrator to pay over to the Milk Industry Board for the purpose of meeting its general expenses, a portion of the monies paid to the Market Administrator for his cost of operation: Provided, That such portion shall in no event exceed 1/4 cent per hundred pounds of milk for which such payment is made.

ARTICLE XV -- GENERAL PROVISIONS

Section 1. Books and Records. The distributors and their respective affiliates and subsidiaries shall severally keep books and records which will clearly reflect all the financial transactions of their respective businesses and the financial condition thereof.

Sec. 2. Reports. The distributors shall severally, from time to time, upon the request of the Secretary, furnish him with such information as he may request, in a manner prescribed by him and/or in accordance with forms of reports to be supplied by him, for the purposes of (1) assisting the Secretary in the furtherance of his powers and duties with respect to this License and/or (2) enabling the Secretary to ascertain and determine the extent to which the declared policy of the Act and the purpose of this License are being effectuated; such reports to be verified under oath. The Secretary's determination as to the necessity of and the justification for the making of any such reports, and the information called for thereby, shall be final and conclusive.

Sec. 3. Examination of Books and Records. For the same purposes as set forth in section 2 of this article and/or to enable the Secretary to verify information furnished him, all the books and records of each distributor and the books and records of the affiliates and subsidiaries of each distributor, shall, during the usual hours of business, be subject to examination by the Secretary. The Secretary's determination as to the necessity of and the justification for any such examination shall be final and conclusive.

Sec. 4. Confidential Information. To the extent not otherwise expressly provided by this License, all information in the possession of the Secretary, the Market Administrator, their agents, or any official, which relates to the business or property of any person and which was furnished by or obtained from such person pursuant to the requirements of this License, shall be kept confidential in accordance with the applicable General Regulations of the Agricultural Adjustment Administration.

Sec. 5. Agents. The Secretary may by designation in writing, name any person or persons, including officers or employees of the Government, or Bureaus or Divisions of the Department of Agriculture, to act as his agents or agencies in connection with any of the provisions of this License, and he may authorize any such agent or agency to designate or appoint persons, including officers or employees of the Department of Agriculture, to exercise or perform any or all of the powers and functions delegated to them as may be deemed necessary or advisable to accomplish the proper execution or performance of such powers and functions.

Sec. 6. Separability. If the applicability of any provision of this License to any person, circumstance or thing is held invalid, the applicability thereof to any other person, circumstance or thing, shall not be affected thereby. If any provision of this License is declared invalid, the validity of the remainder of this License shall not be affected thereby.

Sec. 7. Derogation. Nothing contained in this License is or shall be construed to be in derogation or modification of the rights of the Secretary, or of the United States (1) to exercise any powers granted by the Act or otherwise, and/or (2) in accordance with such powers, to act in the premises whenever such action is deemed advisable.

Sec. 8. Termination. In the event this License is terminated or amended by the Secretary, any and all obligations which shall have arisen, or which may thereafter arise in connection therewith, by virtue of or pursuant to this License, and any violations of this License which may have occurred prior to such termination or amendment, shall be deemed not to be affected, waived or terminated by reason thereof, unless so expressly provided in the notice of termination of, or the amendment to this License.

In witness whereof, _____, Secretary of Agriculture, acting under the provisions of the Agricultural Adjustment Act, as amended, and pursuant to the applicable General Regulations of the Agricultural Adjustment Administration, does hereby execute in duplicate and issue this amended License in the City of Washington, District of Columbia, on this _____ day of _____, 1934, and pursuant to the provisions hereof, declares this amended License to be effective on and after 12:01 a.m., eastern standard time.

Secretary of Agriculture

EXHIBIT A

ALLOTMENT AND REGULATION OF BASES

Section 1. Allotment of Bases. For the purposes of this License, each producer shall be allotted a base as follows:

1. In the case of producers, bases shall be allotted by the Market Administrator, which bases shall be equitable among all producers supplying milk to distributors in the Sales Area.

2. In the case of distributors, who are also producers, bases shall be allotted by the Market Administrator, which bases shall be equitable as compared with the bases of all other producers.

3. In the case of new producers, including distributors who are also new producers, bases shall be allotted by the Market Administrator, which bases shall be equitable with all other bases allotted to producers pursuant to this section.

Sec. 2. Revision of Bases. The Market Administrator may make such revisions in the bases of any and all producers as he may, from time to time, deem necessary or advisable, to the end that such bases may be equitable as among producers and that the total of all established bases may, so far as practical, be equal to the total quantity of milk sold or used by distributors as Class I and Class II milk.

Sec. 3. Reports by Distributors. Upon the request of the Market Administrator, each distributor, who has not already submitted reports containing the information required in this paragraph, shall, within ten days after receiving such request, submit to the Market Administrator written reports, verified under oath containing the following information with respect to each producer, who has delivered milk to such distributor; for each calendar month during the years 1933 and 1934 or such portion thereof as the producer may have delivered milk, (1) the total pounds of delivered milk, (2) the number of days in each month upon which deliveries were made.

Sec. 4. Announcement of Bases. When bases are established for producers, pursuant to sections 1 and 2 of this article, the Market Administrator shall notify each distributor of the bases of producers who are delivering milk to each such distributor.

Sec. 5. Tenure and Transfer of Bases. The following rules shall govern the tenure and transfer by producers of all bases allotted pursuant to this exhibit:

1. Any producer who voluntarily ceases to market milk pursuant to the terms and provisions of this License for a period of more than forty-five (45) consecutive days shall forfeit his base. In the event that he thereafter commences to market milk pursuant to the terms and provisions of this License, he shall be treated for the purpose of these rules as if he were a new producer.

2. Any producer may relinquish his base at any time. In the event, thereafter, such producer requests the Market Administrator to allot him a base, he shall be treated for the purpose of these rules as if he were a new producer.

3. Any producer whose average delivery of milk during the months of August, September and October is less than eighty-five (85) per cent of his base will thereby establish a new base equal to such average delivery.

4. A base may be transferred by the Market Administrator from a producer to a person who has no base, upon the transfer of such producer's entire herd to such person.

5. A producer with a base, whether landlord or tenant, may retain his base when moving his entire herd from one farm to another farm.

6. A landlord who rents on shares is entitled to the entire base to the exclusion of the tenant, if the landlord owns the entire herd. Likewise, the tenant who rents on shares is entitled to the entire base to the exclusion of the landlord if the tenant owns the entire herd. If the cattle are jointly owned by tenant and landlord, the base shall be divided between the joint owners according to the ownership of the cattle if and when such joint owners terminate the tenant-landlord relationship.

